

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**Lucinda Beadle, Personal Representative
of the Estate of Daniel A. Elrod, Deceased,**

Case No. 8:18-cv-81

Plaintiff,

v.

**The City of Omaha, a political subdivision,
Todd Schmaderer, in his capacity as Chief
of Police for the City of Omaha,
Former Officer Alvin Lugod, individually
and in his official position as a Omaha
Police officer and Agent of the City of
Omaha,
And
Does 1-25, inclusive,**

Defendants.

STIPULATION OF THE PARTIES

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Plaintiff Lucinda Beadle, Personal Representative of the Estate of Daniel A. Elrod, Deceased, by and through undersigned counsel, and Defendants, by and through their counsel, stipulate as follows:

1. Plaintiff filed this action in the Douglas County District Court, Nebraska on February 19, 2018. The action was duly served on Defendants the City of Omaha, Todd Schmaderer, in his official capacity as Chief of Police for the City of Omaha, and Alvin Lugod, in his individual and official capacity as an Omaha police officer.
2. On February 22, 2018, the Defendants removed the action to federal court (Doc #1).
3. On April 2, 2018, Defendants filed a motion to dismiss (Doc #6).
4. On April 20, 2018, Plaintiff's unopposed motion for extension to respond to Defendants' Motion to Dismiss was granted.

5. In the subsequent time Counsel for Plaintiff and Counsel for Defendants have conferred on the most efficient way forward for this case, 8:18-cv-82, and similar and related case, 8:18-cv-81.
6. The parties have agreed and hereby stipulate that Plaintiff will dismiss her complaint in case 8:18-cv-81, on or before May 21, 2018, and shall amend her complaint in 8:18-cv-82. Such first amended complaint shall not contain negligence allegations or state law based constitutional or state based civil rights violation claims.
7. Plaintiff shall provide a copy of the first amended complaint in 8:18-cv-82 to Defendants on or before May 21, 2018, and prior to filing so the parties can meet and confer as to minimize the need for further motions to dismiss or motions to strike. However, Defendants reserve the right to file a subsequent motion to dismiss or motion to strike the first amended complaint in 8:18-cv-82 if they deem necessary.
8. Plaintiff shall file her first amended complaint after the parties have met and conferred as to its content. However, reaching agreement to all contents of the first amended complaint is not a prerequisite to Plaintiff filing the first amended complaint.
9. The parties stipulate that the Defendants' pending motion to dismiss in 8:18-cv-82 (Doc #6) and their related pending motion for partial dismissal in 8:18-cv-81 (Doc #6) are hereby withdrawn.
10. The Parties further stipulate that all discovery previously exchanged and produced by either party shall apply to the proceedings in 8:18-cv-82.

Signed and Stipulated May 15, 2018

THE CITY OF OMAHA, TODD
SCHMADERER, in his official capacity, and
ALVIN LUGOD, in his individual and
official capacities, Defendants,

By: s/ Ryan J. Wiesen
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